

**Notice of Allowability**

Application No.

10/019,316

Examiner

Kamal A Saeed

Applicant(s)

CASTALDI ET AL.

Art Unit

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to communication filed on 06/19/2003.
2. ☒ The allowed claim(s) is/are 1-9.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All   b) ☐ Some\*   c) ☐ None   of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892)  | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)          |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 4 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____.            |
| 5 <input type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____.              | 6 <input type="checkbox"/> Examiner's Amendment/Comment                             |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
|  | 9 <input type="checkbox"/> Other  |

***Examiners Amendment***

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. D. Daniel Dzara, on 07/21/2003.

2. The application has been amended as follows:

**In claim 1, line 5, delete "or 6"**

***Reasons for Allowance***

The following is an examiner's statement of reasons for allowance:

Applicants claim a process of preparing (nitromethyl)phenyl esters of salicylic acid derivatives. The process comprises reaction of salicylic acid halide with hydroxybenzylalcohol and subsequently nitrating the product obtained using a nitration mixture comprising steaming nitric acid and inorganic acid or organic acid anhydride. The closest prior art of record is to Del Soldato et al, WO 97/16405. Del Soldato et al teach the reaction of bromomethyl phenol with  $\text{AgNO}_3$  to obtain 3-hydroxybenzylnitrate, which is subsequently reacted with acetylsalicylic acid chloride to give the desired product. The present invention differs from the prior art in that cheaper nitrating agents are used. Moreover, the undesired side reactions are avoided. The process described in this application are neither taught or suggested in the prior art; furthermore there is no suggestion or motivation to modify the processes of the prior art in the manner in which the applicant has to arrive at the instant process of preparing (nitromethyl)phenyl esters.

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Any comments considered necessary by applicant must be submitted no later than the payment issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement for Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kamal Saeed whose telephone number is (703) 308-4592. The examiner can normally be reached on Monday-Friday from 8:00 AM – 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Joseph K. McKane, can be reached at (703) 308 4537. The unofficial fax phone for this group are (703) 308-4556 or 305-3592.

When filing a FAX in Technology Center 1600, please indicate the Header (upper right) "Official" for papers that are to be entered into the file, and " Unofficial" for draft documents and other communications with the PTO that are not for entry into the file of the application. This will expedite processing of your papers.

Communication via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by applicant and should be addressed to [joseph.mckane@uspto.gov]. All Internet e-mail communications will be made of record in the application file. PTO employees will not communicate with applicant via Internet e-mail where sensitive data will be exchanged or where there exists a possibility that sensitive data could be identified unless there is of record an express waiver of the confidentiality requirements under 35 U.S.C. 122 by the applicant. See the Interim Internet Usage Policy

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published by the Patent and Trademark Office Official Gazette on February 25, 1997 at 1195 OG  
89.

Any inquiry of a general nature or relating to the status of this application should be  
directed to the Group receptionist, whose telephone number is (703) 308-1235.

Kamal Saeed, Ph.D.,  
April 24, 2003

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Joseph K. McKane  
Supervisory Patent Examiner  
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Technology Center 1

  
ALAN L. ROTMAN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600